

### **REMARKS**

By this amendment, claims 1-14 are pending, in which no claims are canceled, withdrawn from consideration, or newly presented, and claims 1-3, 8, 9, and 11 are currently amended. No new matter is introduced.

The Office Action mailed April 8, 2008 rejected claims 1 -14 under 35 U.S.C. § 112, second paragraph, as being indefinite, and claims 1-14 under 35 U.S.C. § 102(e) as anticipated by *Lucidarme* (US 7,197,050).

The Office Action also objected to FIG. 3 of the drawings for failing to show descriptive legends associated with the function blocks corresponding to the reference characters 26-29. In view of the Replacement Sheet, the Examiner is respectfully requested to withdraw the objection to the drawings.

With regard to the rejection of claims 1-14 under 35 U.S.C. § 112, second paragraph, claims 1 and 9 have been appropriately amended. Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 1-14 under 35 U.S.C. § 112, second paragraph.

With regard to the rejection of claims 1-14 under 35 U.S.C. § 102(e), based on *Lucidarme*, Applicants respectfully traverse this rejection.

Independent claim 1 is directed to a method for “**determining an error rate** in a data transfer to a mobile-telephone device,” and recites “transmitting transmission blocks to the mobile-telephone device **under test**.” Independent claim 9 is drawn to a tester for “**determining an error rate** in a data transmission to a mobile-telephone device,” and recites “a receiver configured to receive first and second markings transmitted by the mobile-telephone device **under test**.” Furthermore, to advance prosecution, independent claims 1 and 9 have been amended to include the features, respectively, of “wherein the number of

transmission blocks of multiblocks, which address the mobile-telephone device under test, is **specified in a manner such that the stress to which the mobile-telephone under test is subjected is influenced in a targeted manner** between one transmission block per multiblock and all of the transmission blocks of the multiblock, wherein a multiblock includes a fixed number of transmission blocks” and “a selection device for **specifying in a manner such that the stress to which the mobile-telephone under test is subjected is influenced in a targeted manner** the number of transmission blocks of a multiblock, which address the mobile-telephone device under test, between one transmission block per multiblock and all of the transmission blocks per multiblock, wherein a multiblock includes a fixed number of transmission blocks.”

By contrast, *Lucidarme* fails to disclose a mobile-telephone **under test**. Moreover, *Lucidarme* does not disclose an **error rate**. In fact, rather than disclosing or describing a tester or a method for determining an error rate in a data transfer to a mobile-telephone device, *Lucidarme* is directed to controlling the transfer of data blocks based, for example, on acknowledgement information from a receiver.

Still further, *Lucidarme* fails to disclose “specifying in a manner **such that the stress to which the mobile-telephone under test is subjected is influenced in a targeted manner** the number of transmission blocks of a multiblock.”

A rejection for anticipation under section 102 requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. *See Atlas Powder Co. v. Ireco Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). Accordingly, since *Lucidarme* fails to disclose all of the features of the instant

claimed subject matter, *Lucidarme* cannot anticipate the instant claimed subject matter and the Examiner is respectfully requested to withdraw the rejection of claims 1-14 under 35 U.S.C. § 102(e).

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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Date

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